

Via Facsimile to (703) 872-9306  
February 12, 2004

Law Offices of Natan Epstein  
Docket No. Q858-E  
Serial No. 09/664,085

Claim Objections

Responsive to the objection to Claim 42 on Page 2 of the Office Action the Examiner's attention is invited to page 11 line 22 of the specification where the term "finger hold" appears in relation to screw 70. In order to further clarify the term amendment is made to the specification by adding the term "finger hold" in relation to other elements or structures recited earlier in the same paragraph. It is believed that the foregoing moots the need for amendment to the Claims as to this issue.

As to the remaining objections appropriate amendment has been made to each of the objected to claims. Attached is a listing of the claims marked-up to show the amendments made to overcome the claim objections.

Claim Rejections – 35 U.S.C. Section 103(a)

Claims 40-42, 44, 46, 48-50 and 52 have been rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art (Admission) in view of Kilbey 5,814,000 and further in view of Bloedau 5,938,629. Issue is respectfully taken with the Examiner's rejection under 35 U.S.C. 103(a).

The same prior art is cited in the Examiner's rejection of the three independent Claims 40, 46 and 50.

The Examiner cites Kilbey for its teaching of a spring normally urging a detent into locking engagement with two wheels in order to limit pivotal movement of the orthopedic splint to a selected pivotal arc.

The Examiner then cites Bloedau for its teaching of a detent element configured to substantially prevent retraction of the detent element from an engaged condition with a person's unaided hand for the purpose of preventing any unwanted adjustment of the hinge.

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Claim 40, however, is directed to the combination of a spring urged detent element which is configured so as to substantially prevent its retraction with the unaided hand. The Bloedau device is not directed to a spring driven detent.

In Kilbey, each spring loaded detent 60 has a protruding finger grip 68 which can be conveniently grasped and pulled so as to retract the spring driven detent from its engaged condition. Each of the detents 60 in Kilbey is independently releasable by manually pulling on the corresponding end cap 68 against the force of coil spring 74 in each detent. It is not at all clear how the eccentric cam detent 34 of Bloedau could be adapted to the spring loaded detent 60 of Kilbey. In fact, it is fair to say that the cam operated detent of Bloedau is incompatible with a spring driven detent arrangement. This is because the cam 34 of Bloedau performs the function of advancing or retracting the detent plate 32 when the cam is rotated by means of an Allen wrench fitted into socket 37. Consequently, Bloedau does not require spring urging and, in fact, such spring urging would be superfluous and inoperative since it could not advance the detent plate without rotation of the cam. 34. Since rotation of the cam itself advances and retracts the detent plat 32, any spring urging would be inoperative in the combination proposed by the Examiner. Furthermore, since Bloedau fails to suggest the need for preventing unwanted adjustment of the hinge, as the Examiner admits at page 6, top paragraph of the Office Action, Bloedau does not provide any teaching which would lead one of ordinary skill to modify Kilbey so as to prevent such unwanted adjustment.

For the foregoing reasons it is urged that the prior art of record fails to teach or suggest a spring driven detent which is configured so as to substantially prevent retraction of the detent from an engaged condition with a person's unaided hand.

The same argument applies to Claim 46.

Independent Claim 50 has been placed in condition for immediate allowance by incorporating thereinto the subject matter of allowed dependent Claim 51, which has now been cancelled.

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Review and reconsideration of the application in light of the foregoing remarks and accompanying amendment is respectfully requested. All claims remaining in the application are now believed to be in condition for immediate allowance and such action is earnestly requested.

Respectfully submitted,



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